

Hunters Point Naval Shipyard, released June 2002

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Superior Court of California County of San Francisco

Civil Grand Jury

June 6, 2002

Dear Judge Quidachay:

Enclosed are the fifth and sixth reports of the 2001-2002 San Francisco Civil Grand Jury:

- **Hunters Point Naval Shipyard** recommending steps to ensure environmental safety, prioritize economic development, and improve communications with the local community; and
- **The San Francisco Adult Probation Department** calling for increased emphasis on functions that can reduce recidivism and accelerated movement toward community-based probation programs.

Thank you for your continuing support and that of the Court staff.

Sincerely,

A handwritten signature in cursive script that reads "William G. Bowen".

William G. Bowen, Foreperson
San Francisco Civil Grand Jury

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HUNTERS POINT NAVAL SHIPYARD

GLOSSARY

ATSDR - Agency for Toxic Substances and Disease Registry (federal)

BRAC - Base Realignment and Closure Act (federal)

BVHP - Bayview Hunters Point

CAC - Mayor's Hunters Point Citizen's Advisory Committee

CERCLA - Comprehensive Environmental Response, Compensation and Liability Act (federal) - known popularly as "Superfund"

CGJ - Civil Grand Jury (San Francisco)

City - San Francisco City and County

DOD - (U.S.) Department of Defense

DEnv - Department of the Environment (San Francisco)

DPH - Department of Public Health (San Francisco)

FFA - Federal Facilities Agreement
 FOST - Finding of Suitability to Transfer
 HPS - Hunters Point Naval Shipyard
 HPSRP - Hunters Point Shipyard Redevelopment Plan
 MOA - Memorandum of Agreement
 MOED - Mayor's Office of Economic Development
 NPL - National Priorities List
 PAC - Project Area Committee
 RAB - Restoration Advisory Board
 SFRA - San Francisco Redevelopment Agency

TERMINOLOGY

Superfund - the federal law known as CERCLA

sustainable development - meeting the economic development, community revitalization and environmental needs of the present without sacrificing the ability of future generations to meet these needs.

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OVERVIEW

Throughout southeast San Francisco's Bayview Hunters Point (BVHP) community there has been much controversy, fear, and often misinformation surrounding the protracted and difficult process of preparing for the transfer of the former Hunters Point Naval Shipyard (HPS) to the City and County of San Francisco (City) and to the San Francisco Redevelopment Agency (SFRA), under the federal Base Realignment and Closure Act (BRAC). HPS, in a prime urban location along San Francisco Bay, must never again experience the environmental degradation of past uses. Because of the importance of the site to the City, and the length of time it has taken to meet schedules for the property clean up and transfer, the Civil Grand Jury (CGJ) sought to clarify information related to this site.

Community distrust of the public agencies charged with managing the clean up, turnover, and development of this prime real estate is the result of -

- incomplete information
- complex toxic testing requirements
- unexplained fires
- failure to study and/or explain cluster illnesses among nearby long- term residents
- lack of a robust local hiring program
- escalating costs
- missed deadlines.

CGJ found that - under BRAC and the federal Superfund law (i.e., the Comprehensive Environmental Response, Compensation and Liability Act [CERCLA]) - the transfer negotiations and toxic clean up are progressing in a more orderly and controlled manner than public perception would indicate. Recently federal, state, and City agencies have begun working jointly to remedy the gaps in public information and continue to solicit and act upon community input. Congressional support has secured additional clean-up funding for the Department of Defense (DOD) and local, federal, and community leaders are working to hasten the clean up and transfer.

With these encouraging changes in an oft-delayed process, the CGJ is making recommendations to those governmental entities in San Francisco which are central to the work on this multi-faceted effort:

- Board of Supervisors
- Department of the Environment (DEnv)
- Department of Public Health (DPH)
- Mayor's Office of Economic Development (MOED)
- San Francisco Redevelopment Agency (SFRA)

CGJ recommends that the City -

Establish a clearinghouse for information on jobs, serving both employers and potential employees. Such a clearinghouse should coordinate with all other City resources to identify training needs and possible programs.

Create a central public information office to provide up-to-date progress reports and to bridge information gaps between public advisory boards and federal and local community bodies.

Make certain that future developers' plans include an economic commitment and priority consideration for industrial development which will provide jobs for southeast sector residents, before, or in conjunction with the residential development. Placing the first priority on economic development will give BVHP job seekers the chance to earn steady incomes early enough to be capable and ready to purchase some of the anticipated new housing.

Using commonly accepted scientific techniques, document and evaluate any evidence of clustered environmental illnesses among residents of BVHP and compare that data with similar communities near other Superfund sites. The DPH should identify what testing or monitoring can be done, with reliance on federal and state expertise and information.

Demonstrate commitment to environmental compliance and pollution prevention by ensuring that no aspect of the reuse of HPS will endanger the health and well-being of the BVHP community. HPS should be a model of sustainable development in both residential and industrial reuse

BACKGROUND

HPS has a legacy of toxic contamination, including radioactive waste.

The HPS site was established in the 1860s as the Pacific Coast's first dry dock. The use of the installation by the Navy - to construct, maintain, and repair ships - began in 1919; the Navy purchased the site in 1939. The Shipyard was equipped to pull a 90,000-ton aircraft carrier out of the water for maintenance.

During WWII and the 1950s, the Navy's activities at HPS included decontamination and disposition (including sandblasting the hulls of surface ships and submarines) of ships which were exposed to radiation during the nuclear weapons tests in the South Pacific. Operations at the facility over many decades generated a wide variety of liquid and solid wastes. As the shipyard was expanded, the adjacent Hunters Point ridge, a serpentine rock formation, was cut down to fill the shoreline, and that fill contains some naturally occurring toxins.

The facility was used for naval ordnance training exercises, radiological defense research, and research on human exposure to radioactive fallout. It housed the Naval Radiological Defense Laboratory which studied nuclear weapons effects and was operational from 1946 until 1969.

From 1976 to 1987, the site was leased to a private enterprise, which eventually was charged and convicted by federal authorities of numerous violations of laws pertaining to safeguards for toxic substances.

In 1989, the site was placed on the federal government's National Priorities List (NPL) of the nation's worst toxic sites.

In 1991, the DOD selected HPS for closure. In 1993, pursuant to BRAC, plans for transferring the property to the City began. The Hunters Point Shipyard Redevelopment Plan, dated July 14, 1997, provides the framework for reuse and development and divides the entire site into six parcels (A-F) in order to expedite clean up and transfer to the City.

Various events have contributed to the community's concerns and mistrust -

- undisclosed landfill fires
- previously undetected radioactive contamination and toxic gas releases
- missed deadlines
- lack of clear and available information about the contamination conditions on the site.

Environmental and health concerns, as well as economic vitality and community involvement, provide challenges to all parties involved in the base closure and reuse processes at HPS.

The preparation for turnover of HPS to civilian use is complex. Under federal regulations, the City government is not a party to the 1992 Federal Facilities Agreement (FFA) which sets forth clean-up schedules and mandates actions by the involved regulatory agencies:

- (California) Department of Toxic Substances Control
- (California) Regional Water Quality Control Board
- U.S. Department of Defense
- U.S. Environmental Protection Agency
- U.S. Navy

Implementation of the HPS Redevelopment Project hinges upon the successful environmental remediation efforts by the Navy and the regulatory agencies.

The Navy and the City signed a Memorandum of Agreement (MOA) on November 3, 2000, (amended on January 23, 2002) to clarify issues related to the clean up and transfer, and to set forth a schedule for the process. Partial conveyance of the property, by parcel, was authorized in a 1997 Congressional "early transfer" decision that allows the military to transfer land before completing the Superfund clean-up process. A "Finding of Suitability to Transfer" (FOST) is a public process which requires consent of regulatory agencies and full public hearings. Public comment on the FOST (Revision 2) for Parcel A, ended on May 28, 2002. If approved by the City, transfer is expected by the end of this year.

In November 2000, San Francisco voters approved a Declaration of Policy (Proposition P) which expressed concerns about the clean up of the toxic contamination at HPS. The Board of Supervisors passed Resolution 634-01 on July 30, 2001, adopting Prop. P as official City policy for the environmental remediation of HPS, and calling for the prompt and thorough clean up of the Shipyard.

Community acceptance is one of the Superfund's guiding criteria for selecting clean-up remedies. The community-involvement process pursuant to federal base closure requirements establishes a Restoration Advisory Board (RAB) to address issues related to clean up. The Navy is the lead agency for the RAB which includes local, state, federal, community organization representatives, and local residents. Another community involvement group, the Mayor's Hunter Point Shipyard Citizens Advisory Committee (CAC), is actively involved in the planning process for reuse of the site. A third group, the Project Area Committee (PAC) led by the Redevelopment Agency, will oversee all HPS development and planning issues for the greater southeast sector of the City. SFRA selected Lennar/BVHP as the master developer for the site and negotiations for that contract are in progress. It will be at least mid-2004 or 2005 before infrastructure is in place and development construction projects begin.

The toxic clean-up effort has cost over \$225 million and is not finished. It has been plagued by unexpected events and discoveries (including unreported landfill fires, toxic gas releases, suspected underground migrations, and radioactive contamination).

The Navy estimates that all remedial actions at all parcels will be complete by 2007.

Current plans for transfer of the parcels and proposed reuses pursuant to the 1997 SFRA's Hunters Point Shipyard Redevelopment Plan are -

- Parcel A (88 acres) - proposed transfer by the end of 2002
former use - mainly military housing
proposed reuse - residential
- Parcel B (66 acres) - proposed transfer by the end of 2003
former use - industrial, commercial, and office
proposed reuse - mixed use which may include residential
- Parcel C (79 acres) - will not be ready for transfer until 2004 or 2005
former use - maritime, industrial, commercial
proposed reuse - industrial, and research and development (may include residential)
- Parcel D (125 acres) - may be ready for transfer in 2003
former use - industrial, commercial, office, maritime
proposed reuse - primarily industrial (may include residential)
- Parcel E (135 acres) - undergoing additional studies; a feasibility study is expected by 2003; estimated transfer date is 2004 or 2005
former use - open space and landfill
proposed reuse - primarily open space and industrial (may include mixed use for research and development, and residential).
- Parcel F (443 acres of underwater property in San Francisco Bay) - undergoing additional studies; estimated transfer date: 2004 or later.
former use - maritime
proposed reuse - maritime

INVESTIGATIVE PROCESS

Interviews were conducted with representatives from -

- Mayor's Office of Economic Development
- San Francisco Redevelopment Agency
- San Francisco Port Commission
- Mayor's Hunters Point Citizen's Advisory Committee
- San Francisco Department of Public Health
- San Francisco Department of the Environment
- Bayview Hunters Point Community Advocate
- ArcEcology
- Communities for a Better Environment

Restoration Advisory Board
the BVHP community

Reference materials (See Attachment 1) were reviewed and discussed.

FINDINGS AND RECOMMENDATIONS

Finding 1

RAB, CAC, and PAC do not work together and do not have a direct process for communication. This lack of a coordinated communications mechanism weakens the information flow to the community, and often leads to disorganized and ineffective public outreach efforts. This situation contributes to community mistrust and a lack of understanding of issues, including knowledge about progress and positive efforts toward reuse.

Recommendation 1

The City should immediately establish a permanent economic development and public information office, and should locate this office at the gates to the shipyard. (CGJ notes that Building 19 is of a size and location suitable for this purpose.) This office should act as a clearinghouse to facilitate information and communication between employers and job seekers, and to provide referrals to sources for technical training, as well as for business education and financing. This center could serve as the hub for obtaining progress reports, media releases, information, and notices of site tours, as well as providing space for community outreach.

Required Responses -

Board of Supervisors - 90 days
Mayor's Office of Economic Development - 60 days
San Francisco Redevelopment Agency - 60 days

Finding 2

The development of HPS - bordered by one of the most economically depressed areas of San Francisco - could bring jobs and economic benefit to the community. There need to be strong assurances that BVHP residents are not locked out of the jobs, contracts, and ownership that are part of the development of homes and businesses. Some efforts have been made to encourage local training and hiring by on-site contractors; however, these efforts should be strengthened. Jobs in the planned industrial development at HPS would provide the means for some BVHP residents to afford homes in the planned residential developments

Recommendation 2a

Policies and Objectives 18 and 19 - as proposed in the HPS Area Plan of the General Plan of the City and County of San Francisco, Draft, April 8, 1997 - i.e., "Provide employment, business and entrepreneurial opportunities for Bayview Hunters Point residents and businesses" and "Provide education and job training opportunities for Bayview Hunter Point residents," must be implemented. The City should ensure job availability for BVHP residents - at both industrial and residential developments at HPS - and commit to accessibility of business and affordable residential opportunities. The parcel-by-parcel conveyance and development should proceed only with an understanding of the interrelationships of the development and reuse of the parcels. Economic development should be timed so that BVHP workers are able to afford some of the new housing in their community.

Required Responses -

Mayor's Office of Economic Development - 60 days
San Francisco Redevelopment Agency - 60 days

Recommendation 2b

The MOA between the Navy and the City should be amended to include training and hiring for the community to ensure employment in clean-up and development activities.

Required Responses -

Mayor's Office of Economic Development - 60 days

Finding 3

Concerning the nature and extent of health hazards at HPS, there appears to be no agreement among DPH, the Federal and State agencies, community organizations, and the media. Direct communication among all governmental agencies needs strengthening. Lack of complete data and incomplete documentation of the extent of toxics (known as "site characterization") exacerbates the level of community mistrust. The Navy has recently (March 2002) released a draft of an assessment report on the historical programs of the former Naval Radiological Laboratory at HPS, which is suspected of careless handling of radioactive materials. Full public vetting of this report has not occurred.

Recommendation 3

DPH should review what testing and monitoring of the HPS site has been completed or is underway, and should identify what additional evaluations must be made. Using federal and state expertise and information, the City should work with the Navy and environmental regulators to review available test data in determining whether collection, ventilation, and/or treatment systems are warranted at the site. Further, the City should clarify issues, such as -

what effect the cap on the landfill has had on pathways for methane gas and/or other contaminants or compounds
whether public health and/or the environment might be adversely impacted by the landfill cap.

DEnv, MOED and SFRA should work with the Navy and environmental regulators to complete a comprehensive site characterization. A clear schedule for this effort should be provided to the public. A full discussion of the Navy's Historical Radiological Assessment (Volume II Draft, March 2002) is needed. The community should be provided with information and practical advice in layman's language. There should be continuing efforts to strengthen community understanding of the goals, principles, and limitations of risk assessment. Expert testimony must be so presented that it empowers residents to become informed decision makers; media inaccuracies must be promptly rebutted. The National Institutes of Health's "Consensus Development Program" is suggested as a model to guide these efforts.

Required Responses -

Department of the Environment - 60 days
Department of Public Health - 60 days
Mayor's Office of Economic Development - 60 days
San Francisco Redevelopment Agency - 60 days

Finding 4

The complexities of the clean up, transfer, and reuse of the closed HPS offer a wide range of opportunities to the City of San Francisco and its citizens. The residents of the City, including the environmentally and economically impacted BVHP, have the right to maximum health and environmental protection as a result of the return of HPS to civilian use. HPS, in a prime urban location along the San Francisco Bay, must never again experience the environmental degradation of past uses

Recommendation 4

DEnv, MOED, and SFRA should require that new businesses in HPS comply with all environmental regulations, and the City should strictly enforce compliance (including imposing monetary penalties). The City and the community must be assured that the legacy of toxic contamination at HPS is not repeated. All proposed reuses, both residential and industrial, must be required by the City to commit to environmental compliance and pollution prevention; this commitment must be required of all developers and their contractors. A public process for evaluating industrial facilities wishing to locate at HPS should be established in order to provide answers to questions related to a company's environmental record and potential economic and environmental impact on BVHP.

Required Response -

Department of the Environment - 60 days
Mayor's Office of Economic Development - 60 days
San Francisco Redevelopment Agency - 60 day

Summary of Required Responses -

Mayor's Office of Economic Development - Recommendations 1, 2a, 2b, 3, and 4
Board of Supervisors - Recommendation 1
Department of the Environment - Recommendations 3 and 4
Department of Public Health - Recommendation 3
Redevelopment Agency - Recommendations 1, 2a, 3, and 4

ATTACHMENT 1 - References and Resources (listed by date)

HPS Area Plan of the General Plan of the City and County of San Francisco, Draft, April 8, 1997
Hunters Point Shipyard Redevelopment Plan, July 14, 1997 (SF Redevelopment Agency)
Lennar/BVHP Preliminary Design Concept Plan, 2000
Memorandum of Agreement (MOA) between the Navy and City, dated November 3, 2000
Proposition P, passed by the voters in November 2000, and associated Resolution 634-01, adopted by the City in July 2001
ATSDR Health Consultation Summary, HPS Parcel E Landfill Fire, January 2001
BVHP Community Revitalization Concept Plan, Highlights, March 2001
Final Community Notification Plan, Bayview Hunters Point, August 17, 2001 (Department of the Navy)
SF Redevelopment Agency - Workshop informational materials, October 23, 2001
First Amendment to the MOA dated January 23, 2002

Web sites:

<http://www.efds.w.navy.mil/Environmental/HuntersPoint.htm>
<http://www.efds.w.navy.mil/Environmental/RAB.htm>
<http://yosemite.epa.gov/r9/sfund/overview.nsf>
<http://www.sfgov.org/sfra/hpshipyard>
<http://www.bvhp-pac.org>
http://www.atsdr.cdc.gov/HAC/PHA/treasure/tre_toc.html
<http://sfgov.org/sfenvironment/>
<http://www.dph.sf.ca.us>
<http://consensus.nih.gov/about/about.htm>

ATTACHMENT 2 - Map of Site

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